

Senate Bill No. 1069

Passed the Senate April 28, 2005

Secretary of the Senate

Passed the Assembly August 25, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 33333.6 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, Soto. Redevelopment: bonds.

The Community Redevelopment Law limits the effectiveness of every redevelopment plan adopted on or before December 31, 1993, to 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later, after which the agency has no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with provisions governing compliance with an agency's affordable housing obligations, and to enforce existing covenants, contracts, or other obligations. After 10 years from the termination of the effectiveness of the redevelopment plan pursuant to this provision, a redevelopment agency may not pay indebtedness or receive tax increment revenues, except as specified. Existing law prohibits these provisions from being construed to affect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement authorized by the legislative body or the agency pursuant to this law before January 1, 1994, or to affect the right of an agency to receive tax increment revenues to pay the bond, indebtedness, or other obligation.

This bill would provide that the provisions regarding the time limits on the effectiveness of a redevelopment plan do not affect the right of an agency to receive tax increment revenues to pay refunding bonds issued to refinance, refund, or restructure indebtedness authorized prior to January 1, 1994, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 33333.6 of the Health and Safety Code is amended to read:

33333.6. The limitations of this section shall apply to every redevelopment plan adopted on or before December 31, 1993.

(a) The effectiveness of every redevelopment plan to which this section applies shall terminate at a date that shall not exceed

40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with Section 33333.8 and to enforce existing covenants, contracts, or other obligations.

(b) Except as provided in subdivisions (f) and (g), a redevelopment agency may not pay indebtedness or receive property taxes pursuant to Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision (b).

(c) (1) If plans that had different dates of adoption were merged on or before December 31, 1993, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan. If an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by this section shall commence, with respect to the redevelopment plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment.

(2) If plans that had different dates of adoption are merged on or after January 1, 1994, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan.

(d) (1) Unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time limit established by this section or to establish time limits that do not exceed the provisions of subdivision (b) or (c).

(2) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to

comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(e) (1) If a redevelopment plan adopted prior to January 1, 1994, contains one or more limitations required by this section, and the limitation does not exceed the applicable time limit required by this section, this section shall not be construed to require an amendment of this limitation.

(2) (A) A redevelopment plan adopted prior to January 1, 1994, that has a limitation shorter than the terms provided in this section may be amended by a legislative body by adoption of an ordinance on or after January 1, 1999, but on or before December 31, 1999, to extend the limitation, provided that the plan as so amended does not exceed the terms provided in this section. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.

(B) On or after January 1, 2002, a redevelopment plan may be amended by a legislative body by adoption of an ordinance to eliminate the time limit on the establishment of loans, advances, and indebtedness required by this section prior to January 1, 2002. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, except that the agency shall make the payment to affected taxing entities required by Section 33607.7.

(C) When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to subdivisions (a) and (b) by one year by adoption of an ordinance. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6 or Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans, including, but not limited to, the

requirement to make the payment to affected taxing entities required by Section 33607.7.

(D) When an agency is required pursuant to Section 33681.12 to make a payment to the county auditor for deposit in the county's Educational Revenue Augmentation Fund created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to subdivisions (a) and (b) by the following:

(i) One year for each year in which a payment is made, if the time limit for the effectiveness of the redevelopment plan established pursuant to subdivision (a) is 10 years or less from the last day of the fiscal year in which a payment is made.

(ii) One year for each year in which such a payment is made, if both of the following apply:

(I) The time limit for the effectiveness of the redevelopment plan established pursuant to subdivision (a) is more than 10 years but less than 20 years from the last day of the fiscal year in which a payment is made.

(II) The legislative body determines in the ordinance adopting the amendment that, with respect to the project, the following:

(IIa) The agency is in compliance with the requirements of Section 33334.2 or 33334.6, as applicable.

(IIb) The agency has adopted an implementation plan in accordance with the requirements of Section 33490.

(IIc) The agency is in compliance with subdivisions (a) and (b) of Section 33413, to the extent applicable.

(IId) The agency is not subject to sanctions pursuant to subdivision (e) of Section 33334.12 for failure to expend, encumber, or disburse an excess surplus.

(iii) This subparagraph shall not apply to any redevelopment plan if the time limit for the effectiveness of the redevelopment plan established pursuant to subdivision (a) is more than 20 years after the last day of the fiscal year in which such a payment is made.

(3) (A) The legislative body by ordinance may adopt the amendments provided for under this paragraph following a public hearing. Notice of the public hearing shall be mailed to the governing body of each affected taxing entity at least 30 days

prior to the public hearing and published in a newspaper of general circulation in the community at least once, not less than 10 days prior to the date of the public hearing. The ordinance shall contain a finding of the legislative body that funds used to make a payment to the county's Educational Revenue Augmentation Fund pursuant to Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the redevelopment plan. In adopting an ordinance pursuant to this paragraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.

(B) The time limit on the establishment of loans, advances, and indebtedness shall be deemed suspended and of no force or effect but only for the purpose of issuing bonds or other indebtedness the proceeds of which are used to make the payments required by Section 33681.12 if the following apply:

(i) The time limit on the establishment of loans, advances, and indebtedness required by this section prior to January 1, 2002, has expired and has not been eliminated pursuant to subparagraph (B).

(ii) The agency is required to make a payment pursuant to Section 33681.12.

(iii) The agency determines that in order to make the payment required by Section 33681.12, it is necessary to issue bonds or incur other indebtedness.

(iv) The proceeds of the bonds issued or indebtedness incurred are used solely for the purpose of making the payments required by Section 33681.12 and related costs.

The suspension of the time limit on the establishment of loans, advances, and indebtedness pursuant to this subparagraph shall not require the agency to make the payment to affected taxing entities required by Section 33607.7.

(4) (A) A time limit on the establishing of loans, advances, and indebtedness to be paid with the proceeds of property taxes received pursuant to Section 33670 to finance in whole or in part the redevelopment project shall not prevent an agency from incurring debt to be paid from the agency's Low and Moderate Income Housing Fund or establishing more debt in order to fulfill

the agency's affordable housing obligations, as defined in paragraph (1) of subdivision (a) of Section 33333.8.

(B) A redevelopment plan may be amended by a legislative body to provide that there shall be no time limit on the establishment of loans, advances, and indebtedness paid from the agency's Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's affordable housing obligations, as defined in paragraph (1) of subdivision (a) of Section 33333.8. In adopting such an ordinance, neither the legislative body nor the agency is required to comply with Section 33345.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, and the agency shall not make the payment to affected taxing entities required by Section 33607.7.

(f) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit the allocation of taxes to an agency to the extent required to comply with Section 33333.8. In the event of a conflict between these limitations and the obligations under Section 33333.8, the limitations established in the ordinance shall be suspended pursuant to Section 33333.8.

(g) (1) This section does not effect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement entered into pursuant to Section 33401, authorized by the legislative body, or the agency pursuant to this part, prior to January 1, 1994.

(2) This section does not affect the right of an agency to receive property taxes, pursuant to Section 33670, to pay the bond, indebtedness, or other obligation.

(3) This section does not affect the right of an agency to receive property taxes pursuant to Section 33670 to pay refunding bonds issued to refinance, refund, or restructure indebtedness authorized prior to January 1, 1994, if the last maturity date of these refunding bonds is not later than the last maturity date of the refunded indebtedness and the sum of the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds is less than the sum of the total net interest cost to maturity on the refunded indebtedness plus the principal amount of the refunded indebtedness.

(h) A redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670, with respect to a redevelopment plan adopted prior to January 1, 1994, after the date identified in subdivision (b) or the date identified in the redevelopment plan, whichever is earlier, except as provided in paragraph (2) of subdivision (e), in subdivision (g), or in Section 33333.8.

(i) The Legislature finds and declares that the amendments made to this section by the act that adds this subdivision are intended to add limitations to the law on and after January 1, 1994, and are not intended to change or express legislative intent with respect to the law prior to that date. It is not the intent of the Legislature to affect the merits of any litigation regarding the ability of a redevelopment agency to sell bonds for a term that exceeds the limit of a redevelopment plan pursuant to law that existed prior to January 1, 1994.

(j) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by Section 33333.2.

Approved _____, 2005

Governor